

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

DESIRAY HARTSHORN, individually,)	
and as natural parent on behalf of G.H. and	)	CASE NO.:
K.H., minors,)	
10547 County Road 03)	
Napoleon, Ohio 43545	)	JUDGE:
)	
and)	
	)	<u>COMPLAINT WITH JURY DEMAND</u>
TONY HARTSHORN, individually, and as)	
natural parent on behalf of G.H. and K.H.,)	
minors	)	Michael A. Bruno (0033780)
10547 County Road 03	)	Charles E. Boyk (0000494)
Napoleon, Ohio 43545	)	Andrea R. Young (0096334)
	)	<i>Charles E. Boyk Law Offices, LLC</i>
Plaintiffs	)	1500 Timberwolf Drive
	)	Holland, Ohio 43528
v.	)	Telephone: (419) 241-1395
	)	Facsimile: (419) 241-8731
DANE KURTZ	)	mbruno@charlesboyk-law.com
26010 State Road 37)	
Harlan, Indiana 46743	)	<i>Attorney for Plaintiffs</i>
)	
Defendant.)	

Plaintiffs DESIRAY HARTSHORN and TONY HARTSHORN, both individually, and as natural parents on behalf of their minor children, G.H. and K.H. (collectively “Plaintiffs”) bring this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is an action for personal injuries and related economic damages suffered by Plaintiffs as a direct and proximate result of Defendant Dane Kurtz’s negligence in connection

with a motor vehicle accident on October 5, 2021, in Richfield Township, Henry County, Ohio, which is with the judicial district and division of the Court.

PARTIES

2. Plaintiffs Desiray Hartshorn and Tony Hartshorn, wife and husband, and their minor children G.H. and K.H. are all citizens of the state of Ohio and reside in Napoleon, Henry County, Ohio which is within the judicial district and division of the Court.

3. Defendant Dane Kurtz (“Kurtz”) is a citizen of the state of Indiana.

STATEMENT OF JURISDICTION AND VENUE

4. This case is brought under 28 U.S.C. § 1332(a), based upon diversity of citizenship. Because Plaintiffs are citizens of Ohio and Defendant is a citizen of another state, and the amount in controversy (exclusive of interest and costs) exceeds \$75,000.00, diversity jurisdiction exists in this Court.

5. The Court has personal jurisdiction over Defendant pursuant to Ohio’s long-arm statute, R.C. § 2307.382, and consistent with the Constitutional requirements of due process.

6. Venue is proper in the Northern District of Ohio, Western Division, pursuant to 28. U.S. Code § 1391(b)(2) since the accident occurred in Henry County, Ohio.

FIRST CAUSE OF ACTION

(Negligence/Negligence *Per Se* of Dane Kurtz)

7. Plaintiffs incorporate all the foregoing paragraphs in this cause of action by reference.

8. In operating a motor vehicle on a public roadway, Defendant Dane Kurtz owed a duty of care to others, including Plaintiffs, to operate his vehicle in a safe and reasonable manner and in accordance with the laws of the State of Ohio.

9. Ohio Revised Code 4511.43 states in relevant part, that:

“Every driver of a vehicle ... approaching a stop sign shall stop at a clearly marked stop line...After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway...”

10. While operating a motor-vehicle on October 5, 2021, at approximately 3:30 p.m., Defendant Dane Kurtz collided into the driver’s side of Plaintiffs’ vehicle within the intersection of State Route 65 and State Route 281, Richfield Township, Henry County, Ohio, after emerging from a stop sign.

11. At the time of the collision, Plaintiffs’ vehicle was properly traveling through the subject intersection on southbound State Route 65.

12. Defendant Kurtz had a common law and statutory duty to operate his vehicle in a safe and reasonable manner, which included stopping at a stop sign and yielding right of way to passing traffic.

13. Defendant Kurtz failed to operate his vehicle in such a manner and collided into the driver’s side of Plaintiffs’ vehicle.

14. Defendant Kurtz was cited for violating R.C. 4511.43.

15. Defendant Kurtz’s violation of the stop sign statute constitutes negligence *per se*.

16. As a direct and proximate result of Defendant’s negligence and/or statutory violations, Plaintiff, Desiray Hartshorn was injured and damaged.

17. As a direct and proximate result of Defendant’s negligence, Plaintiff Desiray Hartshorn suffered serious and permanent injuries to her head, neck, left shoulder, left hip and left knee, incurred medical bills for the treatment of her injuries, will incur the cost of future care and medical treatment, and incurred lost wages resulting from this collision.

18. As a direct and proximate result of Defendant’s negligence, Plaintiff Desiray Hartshorn, has experienced, and will continue to experience, physical and mental pain and suffering, and

has lost the ability to perform or engage in her usual activities, resulting in a diminished quality of life.

19. Plaintiffs total damages exceed \$75,000.00

SECOND CAUSE OF ACTION

(Loss of Consortium)

20. Plaintiffs incorporate all the foregoing paragraphs in this cause of action by reference.

21. Plaintiffs Desiray Hartshorn and Tony Hartshorn were married at the time of the collision and remain married.

22. As a direct and proximate result of Defendant's negligence and/or statutory violations, Plaintiff Tony Hartshorn has suffered, and continues to suffer, a loss to the companionship, society, services, consortium of his wife that he enjoyed before this accident.

23. As a direct and proximate result of Defendant's negligence and/or statutory violations, Plaintiff's minor children, G.H. and K.H., have suffered, and continue to suffer, a loss of parental consortium with their mother that they enjoyed before this accident.

24. Plaintiffs total damages exceed \$75,000.00.

WHEREFORE, Plaintiffs demand judgment in excess of \$75,000.00 in their respective favor and against Defendant Kurtz in amounts to be established by the evidence at the trial of this cause and permitted by law, together with prejudgment interest, and all other relief just and proper in this matter.

Respectfully submitted,

/s/ Michael A. Bruno
Michael A. Bruno (0033780)
Attorney for Plaintiffs

JURY DEMAND

Plaintiff demands a trial by jury on all issues triable by right.

/s/ Michael A. Bruno

Michael A. Bruno
Attorney for Plaintiffs